

AFFIDAVIT IN SUPPORT OF A CRIMINAL COMPLAINT

I, Justin A. Hines, being first duly sworn, hereby depose and state as follows:

1. I am a special agent with the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and have been so employed since 2015. Before joining ATF, I was employed as a special agent of the U.S. Department of State, Diplomatic Security Service for approximately three years. Before becoming a special agent, I served in the United States Army for six years and was honorably discharged. I am currently assigned to the Philadelphia Crime Gun Intelligence Center. Its primary mission is to investigate those individuals and groups that are engaged in the commission of violent state and federal violations. I have received extensive training regarding violations of federal law, with an emphasis on federal firearms violations. I have received specialized training from ATF relating to use of firearms in violent crime and ballistic technology used to identify, match and link crime guns to incidents. In 2020 I attended ATF training as a Crime Gun Intelligence Expert. My law enforcement experience has included numerous investigations of violent crime, firearm and drug-related offenses resulting in the seizure of various controlled substances and firearms. I have conducted numerous interviews with individuals charged with violent crimes, controlled substance and firearm violations. These investigations have resulted in the arrest and successful prosecution of individuals who have committed violations of federal law, including but not limited to firearms offenses and narcotics trafficking.

2. The facts in this affidavit come from my personal observations, my training and experience, and information obtained from other agents and witnesses. This affidavit is intended to show merely that there is probable cause for a criminal complaint and does not set forth all my knowledge about this matter.

3. This affidavit concerns the illegal possession of ammunition by Jonathan Berberena, a previously convicted felon, in Philadelphia, Pennsylvania on December 6, 2019. On this date, Philadelphia Police Department (PPD) officers responded to a 911 call for a domestic incident involving a firearm in the 3900 block of Elsinore Street in Philadelphia. When officers arrived at the location, they met a female complainant in front of a residence and a male, subsequently identified as Jonathan Berberena (date of birth: 11/14/1980), who was standing nearby. An officer asked the female complainant if someone had a gun, and she nodded in the affirmative, quietly answering that did not want to say it aloud on the street. Berberena had a gym bag slung from his left shoulder. An officer got out of the police car and asked Berberena if there was a gun inside the bag, and Berberena answered that there was a gun inside the bag. He stated that he was not allowed to have a firearm because he was on federal and state parole. Officers then detained Berberena while one officer searched the inside of the gym bag.

4. During the search of gym bag, the officer found a privately manufactured Polymer80 style, 9mm semi-automatic pistol, containing 15 live rounds of 9mm ammunition, inside a plastic shopping bag. An officer asked Berberena if he possessed a valid license to carry a firearm. Berberena answered that the firearm was the female complainant's and he reiterated that he was on federal and state parole. Officers subsequently arrested Berberena for violations of the Pennsylvania Firearms Act.

5. I have investigated Berberena's criminal history. He has been convicted of at least two felonies punishable by more than one-year imprisonment. On May 2, 2003, in the Court of Common Pleas Philadelphia County (Docket No. CP-51-CR-0106531-2001), Berberena was convicted of murder in violation of Pa. C.S. 18 § 2502, for which Berberena received a sentence of 14 to 30 years' imprisonment. On March 18, 2010, Berberena was convicted of narcotics

crimes in violation of 21 U.S.C. § 841(a)(1), (b)(1), in the Eastern District of Pennsylvania, (Criminal Number 95-0001). Berberena was sentenced to 108 months' imprisonment and four years' supervised release.

6. I have consulted with an ATF firearms interstate nexus expert regarding the origin and manufacture of the 15 rounds of Winchester brand 9mm ammunition that were found loaded in the Polymer 80 style, 9mm semiautomatic pistol found inside Berberena's gym bag. The expert determined that the 15 rounds of Winchester ammunition were manufactured outside of the Commonwealth of Pennsylvania, specifically either in Mississippi or Illinois. Based on the investigation conducted by the firearms expert, the 15 rounds of 9mm ammunition traveled in interstate commerce by virtue of its recovery in the Commonwealth of Pennsylvania.

7. Based on the facts set forth above, I believe that probable cause exists that Jonathan Berberena, a previously convicted felon, violated 18 U.S.C. § 922(g)(1) (felon in possession of ammunition) by possessing 15 rounds of 9mm ammunition on December 6, 2019, in Philadelphia, Pennsylvania, and I request the issuance of a criminal complaint and an arrest warrant.

Respectfully submitted,

s/ Justin A. Hines
JUSTIN A. HINES
Special Agent, ATF

Subscribed and sworn to before me
on January 15, 2021.

s/ Timothy R. Rice
HON. TIMOTHY R. RICE
United States Magistrate Judge